

CHAPTER NO. 30

HOUSE BILL NO. 1981

By Representative Westmoreland

Substituted for: Senate Bill No. 1945

By Senator Ramsey

AN ACT to amend Chapter 76 of the Private Acts of 1917; as amended by Chapter 538 of the Private Acts of 1919; Chapter 719 of the Private Acts of 1919; Chapter 269 of the Private Acts of 1927; Chapter 141 of the Private Acts of 1929; Chapter 38 of the Private Acts of 1931; Chapter 96 of the Private Acts of 1935 (Extra Session); Chapter 507 of the Private Acts of 1937; Chapter 105 of the Private Acts of 1937; Chapter 106 of the Private Acts of 1937; Chapter 106 of the Private Acts of 1955; Chapter 68 of the Private Acts of 1955; Chapter 24 of the Private Acts of 1963; Chapter 25 of the Private Acts of 1963; Chapter 486 of the Private Acts of 1968; Chapter 54 of the Private Acts of 1969; Chapter 6 of the Private Acts of 1973; Chapter 281 of the Private Acts of 1974; Chapter 235 of the Private Acts of 1976; Chapter 292 of the Private Acts of 1978; Chapter 28 of the Private Acts of 1981; Chapter 198 of the Private Acts of 1982; Chapter 159 of the Private Acts of 1984; Chapter 44 of the Private Acts of 1995; Chapter 47 of the Private Acts of 1995 and Chapter 177 of the Private Acts of 1996; and any other acts amendatory thereto, relative to the charter of the city of Kingsport.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Article 1, Section 2, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 68 of the Private Acts of 1955, Chapter 106 of the Private Acts of 1955, Chapter 25 of the Private Acts of 1963, Chapter 486 of the Private Acts of 1968, Chapter 281 of the Private Acts of 1974, Chapter 292 of the Private Acts of 1978, Chapter 198 of the Private Acts of 1982, Chapter 159 of the Private Acts of 1984, Chapter 44 of the Private Acts of 1995, Chapter 177 of the Private Acts of 1996, and any other acts amendatory thereto, is amended by deleting Section 2 in its entirety and by substituting instead the following:

Section 2. Corporate powers.

Execution of Powers. City of Kingsport shall have the power and authority:

(1) Assessment, levy and collection of taxes. To assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation taxable by law for state, county or city purposes.

(2) Classification of subjects taxed. To adopt such classifications of subjects and objects of taxation as may not be contrary to law.

(3) Special assessments. To make special assessments for local improvements.

(4) Contracts. To contract and be contracted with.

(5) Debts: evidence of indebtedness. To incur debts by borrowing money or otherwise and to give any appropriate evidence thereof in the manner hereinafter provided.

(6) Bonds, warrants, promissory notes or orders. To issue and give, sell, pledge or in any manner dispose of, negotiable or non-negotiable, interest-bearing or non-interest-bearing bonds, warrants, promissory notes or orders of the city, upon credit of the city, or solely upon credit of specific property owned by the city, or solely upon credit of income derived from any property used in connection with any public utility owned or operated by the city, or solely upon credit of proceeds of special assessments for local improvements, or upon any two (2) or more such credits.

(7) Expending money. To expend the money of the city for all lawful purposes.

(8) General powers as to property. To acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the city or state.

(9) Condemnation. To condemn property, real or personal, or any easement, interest or estate or use therein either within or without the city, for present or future public use; such condemnation shall be made and effected in such manner as may be provided by general law.

(10) Trust powers. To take and hold property within or without the city or state upon trust; and to administer trusts for the public benefit.

(11) Municipal public utilities. To acquire, construct, own, operate and maintain or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the city, its inhabitants, or any part thereof.

(12) Public utility franchises. To grant to any person, firm, association or corporation franchises for public utilities and public services to be furnished the city and those therein. Such power to grant franchises shall embrace the power hereby expressly conferred, to grant exclusive franchises; and when an exclusive franchise is granted it shall be exclusive not only as against any other person, firm, association or corporation, but also as against the city. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The board of mayor and aldermen may prescribe in each grant of a franchise, the rates, fares, charges and regulations that may be made by the grantee of the franchise and may reserve the right to oversee future fares and charges. Franchises may by their terms apply to territory within the corporate limits of the city at the date of franchise, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys and other thoroughfares, and to any other streets, alleys and other thoroughfares that thereafter may be opened.

(13) Public utility contracts. To make contracts with any person, firm, association or corporation, for public utilities and public services to be furnished to the city and those therein. Such power to make contracts shall embrace the power, hereby expressly conferred, to make exclusive contracts; and when an exclusive contract is entered into, it shall be exclusive not only as against any other person, firm, association or corporation, but also against the city itself. Such contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The board of mayor and aldermen may prescribe in each such contract entered into, the rates, fares, charges and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to territory within the corporate limits of the city at date of the contract, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys and other thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened.

(14) Regulation and extension of public utilities. To prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and services of public utilities and compel, from time to time, reasonable extensions of facilities for such services, but nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subsections (12) and (13) of this section.

(15) Establishment, alteration, etc., of streets, sewers, etc. To establish, open, relocate, vacate, abandon, abolish, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains, within or without the corporate limits, and to regulate use thereof within the corporate limits. Property may be taken and appropriated for such purposes in the manner provided by law.

(16) Construction, improvement of streets, assessment therefor. To construct, improve, reconstruct and re-improve by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits and to assess a portion of cost of such improvements upon the property abutting upon or adjacent to such streets, highways or alleys under, and as provided by either:

(a) Chapter 276, Public Acts of 1907, entitled: An Act to empower cities or towns of this State having a population of not less than 4,500 and not more than 4,800 inhabitants, under and by Federal Census of 1900 or any subsequent Federal Census to open, widen, extend, grade, pave, gravel, macadamize, gutter, construct sidewalks, or lay and construct permanent sewers in, curb and park, or otherwise improve streets, avenues, alleys and highways of said municipalities within corporate limits thereof; to levy special taxes, assessments, or local contributions on real estate

abutting on said streets, avenues, alleys, and highways; to provide a method of assessing and collecting all or a portion of cost of said improvements on, from and out of property and property owners abutting on said streets, avenues, alleys, and highways, and of paying for same; and to authorize issuance of bonds or certificates of indebtedness to pay for same, and to provide for redemption of said bonds or certificates of indebtedness;

(b) Title 7, Chapters 32 and 33, Tennessee Code Annotated as same may be amended from time to time.

(17) Licensing and regulation of businesses, occupations, professions. To license and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law.

(18) License tax on animals, things, pursuits, activities. To impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling, not prohibited by law.

(19) Prohibition, regulation, suppression of acts, conduct, practices; general police powers. To define and prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, auctions, occupations, callings, trades, uses of property and all other things whatsoever detrimental or liable to be detrimental to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the city and to exercise general police powers.

(20) Control of occupations and practices liable to be detrimental. To prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of people may lawfully be established, conducted or maintained.

(21) Weights and measures; inspection, weighing, testing of commodity; fee, standards. To regulate, license and impact weights and measures; to inspect, test, measure and weigh any article of consumption or use within the city, and to charge reasonable fees therefor.

(22) Building regulations; inspection of buildings. To regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and to inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent the use thereof and require any alterations or changes necessary to make them healthful, clean or safe.

(23) To provide and maintain charitable, educational, recreative, curative, corrective, detentive or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services.

(24) Jail or Detention Facilities. To purchase or construct, maintain and establish jails or detention facilities for confinement and detention.

(25) Enforcement of ordinances, regulations, rules; limit of fine and imprisonment. To enforce any ordinance, rule or regulation by means of fines, forfeitures, penalties, or by action or proceedings in any court of competent jurisdiction or by any one or more of such means and to impose costs as a part thereof.

(26) Loaning credit of city; stock holding. To give or loan credit of the city to or in aid of any person, company, association or corporation and to become stockholder with others in any company, association or corporation in the manner provided by Article II, § 29, of the Constitution of Tennessee.

(27) Schools. To establish schools, determine the necessary boards, officers and teachers required therefor, and fix their compensation, to purchase or otherwise acquire land for, or assess a fee for the use of or impact upon, school houses, playgrounds and other purposes connected with the schools, to purchase or erect all necessary buildings and to do all other acts necessary to establish, maintain and operate a complete education system within the city.

(28) Animals. To regulate, tax, license or suppress the keeping or going at large of animals within the city; to impound the same and in default of redemption to sell or kill the same.

(29) Municipal elections. To enforce the election provisions of this Charter and to exercise all powers relating to regulation and control of municipal elections not contrary to other provisions of this Charter or to general laws respecting municipal elections.

(30) Municipal stores for sale of intoxicating liquors. To the extent authorized by Tennessee Code Annotated, Title 57, to conduct, operate, maintain and control municipally owned stores for the retail sale of intoxicating liquors, subject to a local option election by voters pursuant to election laws under Tennessee Code Annotated, Section 57-3-106, as amended; that revenues from such operation shall be first used to pay state tax obligations and the remainder shall become a part of the general fund of the City of Kingsport.

(31) Fair housing. To enact and establish a fair housing code and enforce fair housing ordinances, to make unlawful and to prohibit discriminatory housing practices in the sale or rental of real property, because of race, color, religion or national origin within the city.

(32) Taxicabs and contract carriers. To regulate the operation of taxicab and contract carriers within the city.

(33) Power to accept gifts or donations. To accept gifts or donations of real or personal property, and any estate or interest therein, within or without the city or state.

(34) Miscellaneous assessments. To assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice and earth, cutting and removing obnoxious weeds

and rubbish, street lighting, street sweeping, street sprinkling, street flushing and street oiling; the removal and disposal of garbage and refuse, the cleaning and rendering sanitary of closets and privies, as provided by this Charter or in such other manner as may be provided by general law or by ordinance of the board of mayor and aldermen.

(35) Armory. To authorize the city for itself or to participate along with the State and/or Federal Government to acquire necessary land and buildings as a site for an armory and to erect, construct, equip and maintain an armory or use same as an armory.

(36) Collection and disposition of sewage, garbage, refuse. To collect and dispose of drainage, storm water, sewage, offal, ashes, garbage and refuse by disposing of same in any lawful manner, or to license and regulate such collection and disposal, and may fund such acts by taxation, special assessment to the property owner, user fees or other charges.

(37) Departments, functions and services. To provide and maintain charitable, educational, recreative, curative, corrective, detentive or penal institutions, departments, functions, facilities, instrumentalities, convenience and services.

(38) Fire-fighting assistance. To provide, authorize and empower the city to contract with any person, firm or corporation to furnish fire service and to engage in extinguishing fires within or without the corporate limits of the city and within or without the state, and to aid and assist any political subdivision or other governmental agency in extinguishing fires within or without the corporate limits of the city and within or without the state, by furnishing and sending its firemen and/or firefighting equipment within or without the city and within or without the state to fight or to engage in fighting and extinguishing fires, in and to any and all property, and to provide, authorize and empower the city on its own volition, to send its firemen and/or firefighting equipment within or without the corporate limits of the city and within or without the state, in order to save lives or property or for purposes of saving lives or property.

(39) Special code enforcement officers. To authorize the city manager to appoint, in the city manager's discretion, one (1) or more special code enforcement officers upon showing the necessity thereof, to assist in enforcement of the code of ordinances of the city. The duties of special code enforcement officers shall be limited to enforcement of those chapters, divisions, articles and sections of the code of ordinances of the city as are necessary and required for such officers to fulfill their duties and responsibilities as employees of the city assigned to the police department, fire department, department of public works, animal control division, and such other departments or divisions as may be required by ordinance from time to time to assist in enforcement of particular sections of the code of ordinances of the city. Appointment as special code enforcement officer is revocable at any time by the city manager. Special code enforcement officers shall be empowered only to issue a summons for ordinance violations. Special code enforcement officers shall not be authorized to carry a firearm. Before entering upon the performance of duties, special code enforcement officers shall execute and file with the city

recorder a public officer's liability bond in such amount as may be fixed by resolution of the board of mayor and aldermen.

(40) Powers not specifically enumerated. To have and exercise all powers which now or hereafter it would be competent for this Charter specifically to enumerate as fully and completely as though said powers were specifically enumerated herein.

SECTION 2. Article IA, Section 1, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 538 of the Private Acts of 1919 and any other acts amendatory thereto, relating to local improvements, is amended by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. Public Acts 1907, Ch. 276, to govern public improvements.

The provisions of Chapter 276 of the Public Acts of Tennessee of 1907, except as modified by the provisions of this article, shall apply to and shall govern the construction, improving and reconstruction and re-improving by opening, extending, widening, grading, curbing, guttering, paving, graveling, draining, or otherwise improving any streets, highways, avenues, alleys, or other public places within the corporate limits of the city and the assessments levied upon the property abutting upon or adjacent to such streets, highways or alleys, provided the city or its officers or agents or the property owners thereof, elect to construct an improvement under the provisions of that act. The board of mayor and aldermen may by resolution choose to use any other state law it determines is advantageous for the city to use to accomplish any improvements set out in this Article, including Tennessee Code Annotated, Title 7, Chapters 32 and 33.

SECTION 3. Article II, Section 6, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to political activity by city officers and employees, is amended by deleting Section 6 in its entirety and by substituting instead the following:

Section 6. Political activity by city officers, employees.

To the extent permitted by federal law and except as provided by state law, neither the city manager, city attorney, recorder, city judge, chief of police, nor any person in the employ of the city under any of the said officers, shall take any active part in, or contribute any money toward, the nomination or election of any candidates for election to any municipal office of the city, except to answer such questions as may be put to them as they may desire to answer. A violation of this section shall subject the offender to removal from office or employment and to punishment by fine of not more than fifty dollars (\$50.00).

SECTION 4. Article III, Section 3, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 25 of the Private Acts of 1963, and any other acts amendatory thereto, relating to eligibility for election as mayor or aldermen, is amended by deleting Section 3 in its entirety and by substituting instead the following:

Section 3. Eligibility for election as mayor, aldermen.

Any person who is a qualified voter of the city and who has resided within the city for at least one (1) year next preceding the election shall be eligible to election to the office of mayor or alderman.

Residence within any area annexed in a year preceding an election shall be counted in meeting the residence requirement of this section.

SECTION 5. Article III, Section 6, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 292 of the Private Acts of 1978, and any other acts amendatory thereto, relating to the exercise of powers by the board of mayor and aldermen, is amended by deleting Section 6 in its entirety and by substituting instead the following:

Section 6. Powers delegated to and vested in board; powers to be exercised in session.

The legislative and all other powers, except as otherwise provided by this Charter, are hereby delegated to and vested in the board of mayor and aldermen, and the board of mayor and aldermen may by ordinance or resolution not inconsistent with this Charter prescribe the manner in which any powers of the city shall be exercised, provide all means necessary or proper therefor, and do all things needful within or without the city or state to protect the rights of the city.

The said board shall exercise its powers in session duly assembled and no member or group of members thereof shall exercise or attempt to exercise the powers conferred upon the board except through proceedings adopted at such session.

SECTION 6. Article III, Section 7, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 6 of the Private Acts of 1973, and any other acts amendatory thereto, relating to the time and place of regular or special meetings of the board of mayor and aldermen, is amended by deleting Section 7 in its entirety and by substituting instead the following:

Section 7. Time, place of regular, special meetings.

The board of mayor and aldermen shall by ordinance fix the time and place at which the regular meetings of said board shall be held. Until otherwise provided by ordinance or resolution, the regular meeting of said board shall be held at 7:00 p.m. (local time) on the first and third Tuesday of each month.

Whenever in the opinion of the mayor, or city manager, or of a majority of the aldermen, the welfare of the city demands it, the mayor or the recorder shall call a special meeting of the board of mayor and aldermen upon at least twelve (12) hours written notice to the mayor, each alderman, the city manager, city recorder, and city attorney, served personally or left at their usual place of residence. Each call for a special meeting shall set forth the character of the business to be discussed at such meeting and no other business shall be considered at such meetings.

SECTION 7. Article III, Section 9, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 235 of the Private Acts of 1976, Chapter 30 of the Private Acts of 1995, and any other

acts amendatory thereto, is amended by deleting Section 9 in its entirety and by substituting instead the following:

Section 9. Attendance and voting by electronic communication.

(a) Members of the board of mayor and aldermen who are unable to be physically present at the designated place where a meeting of the board of mayor and aldermen is held may participate in a regular, adjourned or called meeting through the use of electronic, telephonic or radio communication by which all members participating may simultaneously hear each other and speak to each other during the meeting. Members participating in a meeting by this means are deemed to be present in person at the meeting for the purpose of voting. Members participating by electronic, telephonic, or radio communication shall not be counted for the purpose of determining the presence of a quorum.

(b) Any meeting held pursuant to the terms of this section shall conform to the requirements of the Open Meetings Act and shall not circumvent the spirit or requirements of that law.

SECTION 8. Article III, Section 12, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 30 of the Private Acts of 1995, and any other acts amendatory thereto, relating to determination of a quorum, adjournment, and compelling attendance of members at meetings of the board of mayor and aldermen, is amended by deleting Section 12 in its entirety and by substituting instead the following:

Section 12. Quorum designated; adjournment from day to day; compelling attendance of members at meetings.

(a) A majority of all members of the board constitutes a quorum, but a smaller number may adjourn from day to day and may compel the attendance of absentees in such manner and under such penalties as the board may provide.

(b) A board member participating by electronic, radio, or telephonic communication shall not be counted for the purpose of determining the presence of a quorum.

SECTION 9. Article III, Section 14, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to sessions being public and allowing for a change of location of meetings of the board of mayor and aldermen, is amended by deleting Section 14 in its entirety and by substituting instead the following:

Section 14. Sessions to be public; change of location.

All sessions of the board shall be public and subject to change of plan in case of emergency.

SECTION 10. Article III, Section 15, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to removal from office of members of the board of mayor and aldermen, is amended by deleting Section 15 in its entirety and by substituting instead the following:

Section 15. Removal from office.

The mayor and aldermen may be removed from office as provided by Tennessee Code Annotated, Title 8, Chapter 47.

SECTION 11. Article IV, Section 2, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 6 of the Private Acts of 1973, Chapter 292 of the Private Acts of 1978, Chapters 44 and 47 of the Private Acts of 1995, Chapter 177 of the Private Acts of 1996, and any other acts amendatory thereto, relating to procedure for passage of ordinances, is amended by deleting Section 2 in its entirety and by substituting instead the following:

Section 2. Procedures for passage; emergency ordinances; amendments.

Before its adoption, every ordinance shall be presented on two (2) different days in open session and read in its entirety on the first of those days. Between the first and second presentation, it shall remain on file with the recorder for public inspection. Any ordinance not so read shall become null and void except that, at the discretion of the board of mayor and aldermen, the reading of the ordinance may be dispensed with provided a copy of said proposed ordinance shall have been given to each board member and three (3) copies given to the recorder at least three (3) days prior to the date of the meeting at which said ordinance shall be presented for the first time. No ordinance shall take effect until ten (10) days after its final passage, except in the case of an emergency ordinance. Each ordinance shall be signed by the mayor or by three (3) board members and entered in full upon the minutes of the board of mayor and aldermen.

An emergency ordinance may be enacted upon the date of its introduction; however, it shall contain the statement that an emergency exists and specify with particularity the facts and reasons constituting such emergency. The unanimous vote of all members of the board present, and not less than five (5) members, shall be required to pass an emergency ordinance.

Upon the first presentation of a proposed ordinance, approval or disapproval may be by voice vote. Upon second presentation, or for approval of an emergency ordinance, the roll shall be called and the vote shall be determined by yeas and nays and the names of the members voting for or against an ordinance shall be entered upon the journal of the proceedings; provided, however, that upon the request of any member, the roll shall be called at the first presentation and the vote shall be determined by yeas and nays and the names of the members voting for or against an ordinance shall be entered upon the journal of the proceedings.

No ordinance making a grant, renewal or extension of a franchise or other special privilege, or regulating the rate to be charged for its services by any public utility, shall ever be granted, renewed or extended as an emergency ordinance.

No ordinance, except for the budget ordinance, shall be amended except by a new ordinance.

SECTION 12. Article IV, Section 3, of Chapter 76 of the Private Acts of 1917 and any other acts amendatory thereto, is amended by deleting Section 3 in its entirety.

SECTION 13. Article IV, Section 4, of Chapter 76 of the Private Acts of 1917 and any other acts amendatory thereto, relating to numbering, copying and preservation of ordinances, is amended by deleting Section 4 in its entirety and by substituting instead the following:

Section 4. Numbering, copying, preservation of ordinances.

Every ordinance shall be immediately taken charge of and numbered by the recorder, copied in an ordinance book, and filed and preserved in the recorder's office.

SECTION 14. Article IV, Section 5, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 144 of the Private Acts of 1994, and any other acts amendatory thereto, relating to publication of penal ordinances, is amended by deleting Section 5 in its entirety and by substituting instead the following:

Section 5. Publication of penal ordinances.

All ordinances of a penal nature, or the caption of such ordinance of a penal nature, shall be published after its final passage at least once in any newspaper of general circulation within the city and no such ordinance shall be in force until the ordinance, or its caption, is so published.

SECTION 15. Article V, Section 1, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 28 of the Private Acts of 1981, and any other acts amendatory thereto, relating to powers and duties of the mayor, is amended by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. Powers and duties generally.

The mayor shall preside at all meetings of the board of mayor and aldermen and perform such other duties consistent with the office as may be imposed by it, and shall have a seat, a voice and a vote, but no veto. The mayor shall sign the journal of the board, and all ordinances upon their final passage, execute all deeds, bonds and contracts made in the name of the city unless otherwise provided by law or ordinance or resolution of the board of mayor and aldermen. The mayor may introduce ordinances in the board of mayor and aldermen.

The mayor shall have the power of appointment and removal of members of the Kingsport Regional Planning Commission, such powers of appointment and removal to be exercised subject to the approval of the remaining members of the board of mayor and aldermen. The mayor shall not serve on any municipal or regional planning commission.

SECTION 16. Article V, Section 2, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to additional duties of the mayor, is amended by deleting Section 2 in its entirety and by substituting instead the following:

Section 2. Additional duties.

The mayor shall have the power and it is hereby made the mayor's duty to perform all acts that may be required of the mayor by any ordinance duly enacted

by the board of mayor and aldermen and not in conflict with any of the provisions of this Charter.

SECTION 17. Article VI, Section 1, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 106 of the Private Acts of 1937, and any other acts amendatory thereto, relating to appointment, compensation and removal of officers and employees, is amended by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. Appointment, compensation, removal.

The board of mayor and aldermen shall appoint and fix the salary of the city manager who shall hold office at the pleasure of the board. The said board shall fix the salaries of the recorder, chief of police and the city attorney, and elect a city judge as provided for in this Charter. The board of mayor and aldermen shall establish and make provision in the appropriation ordinance for such other offices, officers, agents and employees as may be necessary. The recorder, chief of police, treasurer, city attorney, and all other officers, agents and employees, except the city judge, the board of education and appointees of the board of education provided for elsewhere in this Charter, shall be appointed by the city manager and shall be removable by the city manager at any time.

SECTION 18. Article VII, Section 2, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 44 of the Private Acts of 1995, relating to the duties of the city manager, is amended by deleting Section 2 in its entirety and by substituting instead the following:

Section 2. Powers and duties.

The powers and duties of the city manager shall be:

(a) Enforcement of laws and ordinances; institution of prosecution. To see that the laws and ordinances are enforced, and upon knowledge or information of any violation thereof, to see that prosecutions are instituted in the city court.

(b) Appointment or removal of officers or employees. Except as provided in this Charter, to appoint and remove all heads of departments and all subordinate officers and employees, and all appointments to be made on merit and fitness alone. No employee shall be removed except upon specific charges in writing after completion of their six (6) months probationary period. Any employee except department heads, deputy department heads and confidential employees may request a hearing prior to their final termination. The hearing may be public if requested by the employee and the accused shall have the right to appear and defend in person or by counsel and shall have process of the board of mayor and aldermen to compel attendance of witnesses in their behalf.

(c) Supervision, control of officers, departments. To supervise and control the work of the recorder, the chief of police, the city attorney, treasurer, and all other officers except the city judge, and of all departments and divisions created by this Charter or which hereafter may be created by

the board of mayor and aldermen, other than the department of education created by this Charter.

(d) Enforcement of public utility franchises. To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility or franchise are faithfully done, kept and performed and upon knowledge or information of any violation thereof, to call the same to the attention of the city attorney who is hereby required to take such steps as are necessary to enforce the same.

(e) Attendance at meetings of the board of mayor and aldermen. To attend all meetings of the board of mayor and aldermen with the right to take part in the discussions, but having no vote.

(f) Recommendation of measures to the board of mayor and aldermen. To recommend to the board of mayor and aldermen for adoption such measures as the city manager may deem necessary or expedient.

(g) Budget commissioner. To act as budget commissioner and to keep the board of mayor and aldermen fully advised as to the financial condition and needs of the city.

(h) Purchasing agent; bids required. To act as purchasing agent of the city and to purchase all material, supplies, equipment and services for the proper conduct of the city's business. The board of mayor and aldermen shall prescribe by ordinance the maximum expenditure which the city manager may make without specific authorization of the board, and shall prescribe rules for competitive bidding, but no purchase shall be made at any one time in an amount which in the aggregate will exceed fifty thousand dollars (\$50,000) unless bids shall have been requested through public advertisement and award made to the lowest responsible compliant bidder in the best interest and advantage of the city.

(i) Additional duties. To perform such other duties as may be prescribed by this Charter or required of the city manager by resolution or ordinance of the board of mayor and aldermen.

SECTION 19. Article VIII of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to qualifications of the city judge, is amended by adding the following as a new Section 2.5:

Section 2.5. Qualifications of City Judge.

Any person who is a resident of the City of Kingsport and has attained the age of twenty-five (25) years, who is an attorney licensed to practice law in the State of Tennessee, and who is in good standing with the Disciplinary Board of the Supreme Court of the State of Tennessee shall be eligible for the office of city judge.

SECTION 20. Article VIII, Section 3, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 719 of the Private Acts of 1919, and any other acts amendatory thereto,

relating to jurisdiction of the city court, is amended by deleting Section 3 in its entirety and by substituting instead the following:

Section 3. Jurisdiction.

The city court shall have jurisdiction in and over all cases for the violation of laws and ordinances of the city.

SECTION 21. Article VIII, Section 4, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to imposition, collection, and remission of fines and costs; enforcement of orders and limits upon penalties in the city court, is amended by deleting Section 4 in its entirety and by substituting instead the following:

Section 4. Imposition, collection, remission of fines, costs; enforcement of orders; limit upon penalties.

The city judge shall have power and authority to impose fines, penalties, costs and forfeitures and to punish by fine or penalty, for violations of city ordinances, to punish by fine or imprisonment for contempt, to preserve and enforce order in the court, to enforce the collection of all such fines, penalties, costs and forfeitures imposed by the city judge and in default of the payment of good and sufficient security given for the payment of any such fine, penalties, costs or forfeitures imposed by the city judge. The city judge may remit, with or without condition, fines, penalties and costs imposed for violation of any ordinance or charter provision.

SECTION 22. Article VIII, Section 5, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, by deleting the existing Section 5 in its entirety.

SECTION 23. Article VIII, Section 6, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 96 of the Private Acts of 1935 (Extra Session) and any other acts amendatory thereto, relating to appeals, appearance bonds, pauper's oaths, and appeal bonds, is amended by deleting Section 6 in its entirety and by substituting instead the following:

Section 6. Appeal from conviction of ordinance violation; appearance bond; pauper's oath; civil appeal bond.

Any person dissatisfied with the judgment of the city judge, charged with the violation of a city ordinance and the case against such person has been heard and determined by the city judge, such person, as a matter of right, may within ten (10) entire days thereafter (Sunday excluded), appeal to the next term of the law court at Kingsport in Sullivan County, upon depositing a cash bond, and/or giving an appearance bond, which shall not exceed two hundred fifty dollars (\$250.00), with good and sufficient sureties, as approved by the city judge, and/or any policeman on duty, for the appearance of such person before the law court at the next term of the law court for Kingsport in Sullivan County, to prosecute the appeal from the city court to the law court.

The appearance bond may be substantially in the following form:

STATE OF TENNESSEE-SULLIVAN COUNTY, CITY OF KINGSPORT

We, A.B., as principal, and the undersigned sureties, agree to pay the City of Kingsport _____ dollars, unless the said A.B., shall appear at the next term of Law Court, at Kingsport, for Sullivan County, to answer the offense of _____, which is a violation of the city ordinance, and does not depart the court without leave.

In the case of failure to appear and prosecute the appeal in the law court, then the law court shall enter judgment against the principal and the sureties for such fine and cost as are imposed in the law court.

A.B. _____

C.D. _____

E.F. _____

Approved G.H. (Name of Officer)

In the event such person charged with violation of a city ordinance has appealed from the judgment of the city court to the next term of the law court by giving bond as herein provided, and fails to appear at the next term of the law court, and fails to prosecute the appeal, and such person is fined and/or the judgment of the lower court is affirmed in the law court, then such person and their sureties on the appearance bond shall be jointly and severally liable for the fine and costs, and the judgment shall be entered accordingly in the law court. But, if such person appears and prosecutes the appeal, and is fined and/or the judgment of the lower court is affirmed, then such person shall be in the hands of the chief of police of the City of Kingsport, to perform the judgment of the law court.

In event such person is unable to deposit a cash bond and/or give an appearance bond with good sureties, such person shall have the right to appeal, within the time fixed herein, to the next term of the law court at Kingsport, by filing with the city judge a pauper's oath.

In all appeals from judgment in civil matters tried and determined by the city judge, the appeal bond shall be in the manner and form, and the same as provided by the general laws of the state for appeals from general session courts in civil cases to the circuit court.

SECTION 24. Article VIII, Section 8, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to disposition of fines or penalties, is amended by deleting Section 8 in its entirety and by substituting instead the following:

Section 8. Disposition of fines or penalties.

All fines or penalties imposed by the city court for violations of city ordinances shall belong to and be paid into the treasury of the city.

SECTION 25. Article VIII, Section 9, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 292 of the Private Acts of 1978, and any other acts amendatory thereto, relating to taxation of costs, disposition of penalties, is amended by deleting Section 9 in its entirety and by substituting instead the following:

Section 9. Taxation of costs; certification, collection of fines, costs; disposition of costs.

The city judge, in all cases heard or determined by the city judge for offenses against the corporate laws and ordinances, shall tax in the bill of costs an amount to be set by the board of mayor and aldermen by ordinance. The city judge shall certify to the clerk of the city court for collection, all fines, penalties, costs and forfeiture imposed for offenses against the laws and ordinances of the city. Costs shall belong to the city and be paid into its treasury. It shall be unlawful for any other person or officer to collect or receipt for said fines, penalties, costs and recoveries, but the city judge may authorize the chief of police to collect and receipt for fines, penalties and costs.

SECTION 26. Article VIII, Section 10, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to city court dockets, is amended by deleting Section 10 in its entirety and by substituting instead the following:

Section 10. Dockets.

The city judge shall keep, or cause to be kept, a court docket embodying complete detailed records of all cases handled by the city judge.

SECTION 27. Article IX, Section 2, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 47 of the Private Acts of 1995, and any other acts amendatory thereto, relating to the city attorney, is amended by deleting Section 2 in its entirety and by substituting instead the following:

Section 2. Appointment of assistants, employees; powers and duties enumerated; salary.

The city attorney shall appoint such assistants and employees as may be provided by ordinance and shall, except as otherwise provided by resolution or ordinance, direct the management of all litigation in which the city is a party; the city attorney shall represent the city in all legal matters and proceedings in which the city is a party or interested, or in which any of its officers are officially interested; the city attorney shall attend all meetings of the board of mayor and aldermen, advise the board of mayor and aldermen and committees or members thereof, the city manager, and the heads of all departments and divisions as to all legal questions affecting the city's interest; the city attorney shall approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of, or made by or with the city. The city attorney shall direct the functions of the prosecuting attorney in the city court if, in the city attorney's discretion, a prosecuting attorney is needed. The city attorney shall receive a salary to be fixed by the board of mayor and aldermen.

SECTION 28. Article X, Section 1, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to the city recorder, is amended by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. Powers, duties enumerated; salary.

The recorder shall be the chief financial officer and the head of the department of finance. The recorder shall receive a salary to be fixed by the board of mayor and aldermen; and shall give such bond to the city for not less than five thousand dollars (\$5,000.00), or as may be provided by ordinance. The recorder shall have a seat and a voice, but not vote, in the board of mayor and aldermen. With the consent of the city manager, the recorder may appoint such deputies as may be provided by ordinance. The recorder shall by their signature and the city seal, attest all instruments signed in the name of the city and all official acts of the mayor. The recorder shall have power to administer oaths.

SECTION 29. Article XI, Section 1, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to the department of finance; basis of taxation; ad valorem tax on stocks, accounts, equipment; assessment book for city; and certification to the recorder, is amended by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. Department of finance; basis of taxation; ad valorem tax on stocks, accounts, equipment; assessment book for city; certification to recorder.

The assessment, levy and collection of taxes and special assessments shall be in charge of the department of finance, subject to the limitations elsewhere found in this Charter.

All property, real, personal and mixed, subject to state, county and city taxes, and all persons liable for all privileges taxable by law, and all persons liable for work on the public streets, avenues, alleys or other thoroughfares of the city, or for a tax in lieu of said work when the same shall have become duly assessed for taxation, as now or may hereafter be provided by law, by the assessor or assessors elected or appointed under the general laws of the state, or by ordinance of the board of mayor and aldermen, shall be the basis upon which property shall be taxed and taxes collected by the city for municipal purposes as hereinafter provided. The ad valorem tax upon the stocks, accounts and equipment, or the gross investment of merchants shall be computed upon the average value of such stocks, accounts and equipment, or gross investment in like manner as state and county merchant's ad valorem tax is assessed upon the same property. It shall be the duty of the county tax assessors for Sullivan County and Hawkins County and the Tennessee Regulatory Authority or its successor to prepare a separate assessment book or roll showing real, personal and mixed property assessable by the county tax assessors for Sullivan County and Hawkins County or the Tennessee Regulatory Authority or its successor lying within the limits of the city. These records shall be certified to the recorder of the city upon the completion of the work of the boards of equalization, after they have been copied by the county court clerk of Sullivan County, or the comptroller of the state.

SECTION 30. Article XI, Section 2, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to the city tax book; preparation; use as city assessment;

and assessment by city assessors, is amended by deleting Section 2 in its entirety and by substituting instead the following:

Section 2. City tax book; preparation, use as city assessment; assessment by city assessors.

As soon as practicable in each year after the assessment books for the state and county are complete (which shall be after the equalization boards provided for by general law shall have finished their work), it shall be the duty of the recorder to prepare or cause to be prepared from the said assessment books of Sullivan County and Hawkins County, and of the Tennessee Regulatory Authority or its successors, a tax book similar in form to that required by the laws of the state to be made out for the county trustee, embracing, however, only such properties and persons as are liable for taxes within the city. Such tax book, when certified to be true, correct, and complete by the recorder, shall be the assessment for taxes in said city for all municipal purposes; provided, that there may be an assessment by the recorder at any time of any property subject to taxation found to have been omitted, and such assessment shall be duly noted and entered on the assessment books of the city, and further provided, that instead of the assessment made by county and state officials as herein provided the city may by ordinance insofar as not prohibited by general law, provide for and regulate an assessment to be made by its own tax assessors.

SECTION 31. Article XIII, Section 3, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 269 of the Private Acts of 1927, Chapter 141 of the Private Acts of 1929, Chapter 38 of the Private Acts of 1931, Chapter 105 of the Private Acts of 1937, Chapter 507 of the Private Acts of 1937, and any other acts amendatory thereto, relating to due dates, coupons, registration, conversion of bonds, and sinking fund bonds, is amended by deleting Section 3 in its entirety and by substituting instead the following:

Section 3. Due dates, coupons, registration, conversion of bonds; sinking fund bonds.

Bonds issued under the provisions of this article may be so issued as to be payable on a specified date or serially or subject to call and redemption, and may be coupon bonds or registered bonds, and the board of mayor and aldermen may provide by ordinance for the conversion of coupon bonds into registered bonds and vice versa.

All long-term bonds may be sinking fund bonds and the amount of the annual installments to be paid into the sinking fund shall be fixed by the board of mayor and aldermen for each bond issue and such sinking fund installments shall be a prior lien on the tax levy each year.

SECTION 32. Article XV, Section 1, of Chapter 76 of the Private Acts of 1917, Chapter 24 of the Private Acts of 1963, Chapter 292 of the Private Acts of 1978, and any other acts amendatory thereto, relating to budgets, is amended by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. Designation of budget commissioner, fiscal year; estimate of expenditures, receipts.

The city manager shall be budget commissioner. The fiscal year of the city shall begin on the first day of July until otherwise provided by ordinance. The city manager shall on or before May 15th of each year, submit to the board of mayor and aldermen an estimate of the expenditures and revenues of the city for the ensuing fiscal year in a form and with documentation as required by the board of mayor and aldermen but at a minimum shall include:

(a) Estimates of proposed expenditures for each department, board, office or other agency of the city, showing in addition, the expenditures for corresponding items for the last fiscal year, projected expenditures for the current fiscal year and reasons for recommended departures from the current appropriation pattern as required by the board of mayor and aldermen.

(b) Estimates of anticipated revenues of the city from all sources including current and delinquent taxes, non-tax revenues and proceeds from the sale of any bonds or long-term notes with a comparative statement of the amounts received by the city from each of such sources for the last preceding fiscal year, the current fiscal year, and the coming fiscal year in such detail as may be prescribed by the board of mayor and aldermen.

(c) Such other information as required by the board of mayor and aldermen, or that the city manager may deem advisable to submit.

SECTION 33. Article XV, Section 2, of Chapter 76 of the Private Acts of 1917, Chapter 292 of the Private Acts of 1978, and any other acts amendatory thereto, relating to appropriation ordinances, is amended by deleting Section 2 in its entirety and by substituting instead the following:

Section 2. Tentative appropriation ordinance; preparation, publication, adoption.

Upon receipt of such estimate the board of mayor and aldermen shall prepare a tentative appropriation ordinance, which shall also be published in a newspaper of general circulation in the city not less than one week before it is taken up for consideration by the board of mayor and aldermen, and before acting upon such tentative appropriation ordinance, the board of mayor and aldermen shall consider same at the next regular meeting and all voters and taxpayers may appear at said meeting and be heard in person or by attorney. The appropriation ordinance for each fiscal year shall be finally adopted before the first day of the fiscal year. Further appropriations and expenditures during the fiscal year after passage of the budget ordinance shall be by resolution of the board of mayor and aldermen as necessity and advisability shall become apparent.

The budget ordinance may be amended by resolution. Further appropriations and expenditures during the fiscal year after passage of the budget ordinance shall be made by resolution of the board of mayor and aldermen as the necessity and advisability shall become apparent.

SECTION 34. Article XVI, Section 1, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, relating to establishment of departments, is amended by deleting Section 1 in its entirety and by substituting instead the following:

Section 1. Establishment, designation.

That the work and affairs of the city may be classified and arranged conveniently and conducted efficiently, there are hereby established the following departments:

- (a) Department of finance.
- (b) Police department.
- (c) Fire department.
- (d) Department of public works.
- (e) Department of education.

SECTION 35. Article XVI, Section 2, of Chapter 76 of the Private Acts of 1917, Chapter 235 of the Private Acts of 1976, and any other acts amendatory thereto, relating to salaries, duties, functions, etc., of departments, is amended by deleting Section 2 in its entirety and by substituting instead the following:

Section 2. Salaries, duties, functions; creation, combination, abolition; temporary departments.

The board of mayor and aldermen shall fix all salary ranges in all departments except the department of education, prescribe the duties and functions of all departments except as fixed by this Charter and may, by unanimous vote of all members of the board present, and not less than five (5) members, create new departments, combine or abolish existing departments, or establish temporary departments for special work.

SECTION 36. Article XVII, Section 5, of Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, is amended by deleting the existing Section 5 in its entirety.

SECTION 37. Article XX, Section 1, of Chapter 76 of the Private Acts of 1917, as amended by Chapter 54 of the Private Acts of 1969, Chapter 235 of the Private Acts of 1976, Chapter 292 of the Private Acts of 1978, Chapters 44 and 47 of the Private Acts of 1995, and any other acts amendatory thereto, relating to city contracts, is amended to read as follows:

Section 1. Designated work to be by contract; advertisement for bids; bond of contractor; rejection of bids, re-advertisement; work by city forces.

(a) All contracts for more than fifty thousand dollars (\$50,000) shall be awarded to the lowest responsible compliant bidder in the best interest and advantage to the City of Kingsport after publication, advertisement and competition, as may be prescribed by ordinance; but no contract for any public work or improvement shall be awarded except on condition that the contractor

give bond with some bonding company authorized to transact business in Tennessee, as surety, in a sum equal to at least fifty percent (50%) of the contract price of the particular work or improvement for the faithful performance of such contract. In lieu of the bond required in this subsection, the city may, in its sole discretion, allow the following securities or cash to be substituted:

(1) United States Treasury bonds, United States Treasury notes or United States Treasury bills.

(2) General obligation bonds of the State of Tennessee.

(3) Certificates of deposits irrevocably pledged from a state or national bank having its principal office in Tennessee.

(4) An irrevocable letter of credit from a state or national bank having its principal office in Tennessee. The terms and conditions of any letter of credit shall be subject to the approval of the city treasurer. All letters of credit shall be accompanied by an authorization of the contractor to deliver retained funds to the bank issuing the letter.

(5) Cash, provided that if cash is posted, the city shall pay to the contractor interest at the same rate that interest is paid on funds invested in a local government investment pool established pursuant to Tennessee Code Annotated, Section 9-4-704, for the contract period.

(b) The board of mayor and aldermen shall have the power to reject all bids and advertise again, and all advertisements shall contain a reservation of this right.

(c) This section shall not be construed to prohibit any work or improvements by city forces upon authorization by the board of mayor and aldermen. Such authorization shall be based on detailed estimates submitted by the responsible department and approved by the city manager.

(d) No contract for any public work or improvement for more than fifty thousand dollars (\$50,000) shall be awarded except on condition that the contractor give bond with some bonding company authorized to transact business in Tennessee, as surety for mechanics' liens and materialmen's liens, in a sum equal to at least fifty percent (50%) of the contract price of the particular work or improvement. In lieu of the bond required in this subsection, the city may, in its sole discretion, allow the following securities or cash to be substituted:

(1) United States Treasury bonds, United States Treasury notes or United States Treasury bills.

(2) General obligation bonds of the State of Tennessee.

(3) Certificates of deposit irrevocably pledged from a state or national bank having its principal office in Tennessee.

(4) An irrevocable letter of credit from a state or national bank having its principal office in Tennessee. The terms and conditions of any letter of credit shall be subject to the approval of the city treasurer. All letters of credit shall be accompanied by an authorization of the contractor to deliver retained funds to the bank issuing the letter.

(5) Cash, provided that if cash is posted, the city shall pay to the contractor interest at the same rate that interest is paid on funds invested in a local government investment pool established pursuant to Tennessee Code Annotated, Section 9-4-704, for the contract period.

SECTION 38. Nothing in this act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

SECTION 39. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 40. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Kingsport. Its approval or nonapproval shall be proclaimed by the presiding officer of the municipal legislative body and certified to the Secretary of State.


SECTION 41. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 40.

PASSED: April 5, 2001


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 11th day of April 2001


DON SUNDQUIST, GOVERNOR